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Attorneys for Plaintiff, Debby Mendez
Our File No. 990.22450/FXG

DEBBY MENDEZ,	:	UNITED STATES DISTRICT COURT
	:	DISTRICT OF NEW JERSEY
Plaintiff,	:	
	:	CIVIL ACTION NO:
vs.	:	09-cv-01155 (WJM)
	:	
AMERICAN GENERAL LIFE	:	
INSURANCE COMPANY,	:	ANSWER TO COUNTERCLAIM
	:	
Defendant.	:	
	:	

Plaintiff, by way of Answer to the Counterclaim of defendant,
American General Life Insurance Company, says:

1. Plaintiff admits the allegations of paragraph 1 of
defendant's Counterclaim.

2. Plaintiff admits the allegations of paragraph 2 of
defendant's Counterclaim.

3. Plaintiff admits the allegations of paragraph 3 of
defendant's Counterclaim.

4. Plaintiff admits the allegations of paragraph 4 of
defendant's Counterclaim.

5. Plaintiff denies the allegations of paragraph 5 of
defendant's Counterclaim.

6. Plaintiff denies the allegations of paragraph 6 of

defendant's Counterclaim.

7. Plaintiff admits the allegations of paragraph 7 of defendant's Counterclaim.

8. Plaintiff admits the allegations of paragraph 8 of defendant's Counterclaim.

9. Plaintiff admits the allegations of paragraph 9 of defendant's Counterclaim.

10. Plaintiff admits the allegations of paragraph 10 of defendant's Counterclaim.

MISREPRESENTATIONS

11. Plaintiff admits the allegations of paragraph 11 of defendant's Counterclaim.

12. Plaintiff admits the allegations of paragraph 12 of defendant's Counterclaim.

13. Plaintiff admits the allegations of paragraph 13 of defendant's Counterclaim.

14. Plaintiff admits the allegations of paragraph 14 of defendant's Counterclaim.

15. Plaintiff admits the allegations of paragraph 15 of defendant's Counterclaim.

16. Plaintiff admits the allegations of paragraph 16 of defendant's Counterclaim.

17. Plaintiff admits the allegations of paragraph 17 of defendant's Counterclaim.

18. Plaintiff admits the allegations of paragraph 18 of defendant's Counterclaim.

19. Plaintiff admits the allegations of paragraph 19 of defendant's Counterclaim.

20. Plaintiff admits the allegations of paragraph 20 of defendant's Counterclaim.

21. Plaintiff admits the allegations of paragraph 21 of defendant's Counterclaim.

22. Plaintiff admits the allegations of paragraph 22 of defendant's Counterclaim.

23. Plaintiff admits the allegations of paragraph 23 of defendant's Counterclaim.

24. Plaintiff admits the allegations of paragraph 24 of defendant's Counterclaim.

25. Plaintiff admits the allegations of paragraph 25 of defendant's Counterclaim.

26. Plaintiff admits the allegations of paragraph 26 of defendant's Counterclaim.

27. Plaintiff admits the allegations of paragraph 27 of defendant's Counterclaim.

28. Plaintiff admits the allegations of paragraph 28 of defendant's Counterclaim.

29. Plaintiff admits the allegations of paragraph 29 of defendant's Counterclaim.

30. Plaintiff admits the allegations of paragraph 30 of defendant's Counterclaim.

31. Plaintiff admits the allegations of paragraph 31 of defendant's Counterclaim.

32. Plaintiff admits the allegations of paragraph 32 of defendant's Counterclaim.

33. Plaintiff admits the allegations of paragraph 33 of defendant's Counterclaim.

34. Plaintiff admits the allegations of paragraph 34 of defendant's Counterclaim.

35. Plaintiff admits the allegations of paragraph 35 of defendant's Counterclaim.

36. Plaintiff admits the allegations of paragraph 36 of defendant's Counterclaim.

37. Plaintiff admits the allegations of paragraph 37 of defendant's Counterclaim.

38. The allegations contained in paragraph 38 of the "Misrepresentations" section of the Counterclaim are not directed at plaintiff and are a statement of a position of the defendant and to the extent that the allegations contained therein required a concurrence of the plaintiff, they are denied.

39. Plaintiff denies the allegations of paragraph 39 of defendant's Counterclaim.

MENDEZ'S TRUE MEDICAL CONDITION

40. The allegations contained in paragraph 40 of the "Misrepresentations" section of the Counterclaim are not directed at plaintiff and are a statement of a position of the defendant and to the extent that the allegations contained therein required a concurrence of the plaintiff, they are denied.

41. Plaintiff admits the allegations of paragraph 41 of

defendant's Counterclaim.

42. Plaintiff denies the allegations of paragraph 42 of defendant's Counterclaim.

43. Plaintiff denies the allegations of paragraph 43 of defendant's Counterclaim.

44. Plaintiff denies the allegations of paragraph 44 of defendant's Counterclaim.

45. Plaintiff denies the allegations of paragraph 45 of defendant's Counterclaim.

46. Plaintiff denies the allegations of paragraph 46 of defendant's Counterclaim.

47. Plaintiff denies the allegations of paragraph 47 of defendant's Counterclaim.

48. Plaintiff admits the allegations of paragraph 48 of defendant's Counterclaim.

49. Plaintiff admits the allegations of paragraph 49 of defendant's Counterclaim.

50. Plaintiff admits the allegations of paragraph 50 of defendant's Counterclaim.

51. Plaintiff admits the allegations of paragraph 51 of defendant's Counterclaim.

52. Plaintiff admits the allegations of paragraph 52 of defendant's Counterclaim.

53. Plaintiff denies the allegations of paragraph 53 of defendant's Counterclaim.

54. Plaintiff denies the allegations of paragraph 54 of

defendant's Counterclaim.

55. Plaintiff denies the allegations of paragraph 55 of defendant's Counterclaim.

56. Plaintiff admits the allegations of paragraph 56 of defendant's Counterclaim.

57. Plaintiff denies the allegations of paragraph 57 of defendant's Counterclaim.

58. Plaintiff denies the allegations of paragraph 58 of defendant's Counterclaim.

59. Plaintiff denies the allegations of paragraph 59 of defendant's Counterclaim.

THE MISREPRESENTATIONS WERE MATERIAL

60. Plaintiff denies the allegations of paragraph 60 of defendant's Counterclaim.

61. Plaintiff denies the allegations of paragraph 61 of defendant's Counterclaim.

62. Plaintiff denies the allegations of paragraph 62 of defendant's Counterclaim.

COUNT I
(Material Misrepresentation)

43. Plaintiff repeats and realleges her answers to the above allegations as if same were set forth herein at length.

44. Plaintiff denies the allegations of paragraph 44 of the Material Misrepresentation section (paragraphs are not sequential in the Counterclaim) of defendant's Counterclaim.

45. Plaintiff denies the allegations of paragraph 45 of the Material Misrepresentation section of defendant's Counterclaim.

46. Plaintiff denies the allegations of paragraph 46 of the Material Misrepresentation section of defendant's Counterclaim.

47. Plaintiff denies the allegations of paragraph 47 of defendant's Counterclaim.

COUNT II
(Fraud)

48. Plaintiff repeats and realleges her answers to the above allegations as if same were set forth herein at length.

49. Plaintiff denies the allegations of paragraph 49 of Count II of defendant's Counterclaim.

50. Plaintiff denies the allegations of paragraph 50 of Count II of defendant's Counterclaim.

51. Plaintiff denies the allegations of paragraph 51 of Count II of defendant's Counterclaim.

52. Plaintiff denies the allegations of paragraph 52 of Count II of defendant's Counterclaim.

53. Plaintiff denies the allegations of paragraph 53 of Count II of defendant's Counterclaim.

COUNT III
(Declaratory Relief)

54. Plaintiff repeats and realleges her answers to the above allegations as if same were set forth herein at length.

55. Plaintiff admits the allegations of paragraph 55 of Count III of defendant's Counterclaim.

56. Plaintiff denies the allegations of paragraph 56 of Count III of defendant's Counterclaim.

57. Plaintiff admits the allegations of paragraph 57 of Count III of defendant's Counterclaim.

COUNT IV
(Declaratory Relief)

58. Plaintiff repeats and realleges her answers to the above allegations as if same were set forth herein at length.

59. Plaintiff denies the allegations of paragraph 59 of Count IV of defendant's Counterclaim.

60. Plaintiff denies the allegations of paragraph 60 of Count IV of defendant's Counterclaim.

61. Plaintiff denies the allegations of paragraph 61 of Count

IV of defendant's Counterclaim.

62. Plaintiff denies the allegations of paragraph 62 of Count IV of defendant's Counterclaim.

63. Plaintiff admits the allegations of paragraph 63 of Count IV of defendant's Counterclaim.

AFFIRMATIVE DEFENSES
FIRST AFFIRMATIVE DEFENSE

Plaintiff, Debby Mendez, incorporates herein the assertions and allegations as more fully set forth in her Complaint against American General Life Insurance Company.

SECOND AFFIRMATIVE DEFENSE

The Counterclaim fails to set forth a cause of action upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

Plaintiff admits that a certain agreement was made and refers to the entire agreement for the contract between the parties and relies upon its provisions.

FOURTH AFFIRMATIVE DEFENSE

Insofar as the Counterclaim asserts a cause of action based upon breach of contract, plaintiff denies that there was any breach, however, if such is found to have existed, plaintiff contends that the relief sought was not within the contemplation of the parties at the time of the making of the contract and further would not naturally result from any breach.

FIFTH AFFIRMATIVE DEFENSE

All statements made by Jorge Mendez in his application for the

subject life insurance policy were truthful and accurate at the time the application was executed and therefore defendant's Counterclaim must fail.

SIXTH AFFIRMATIVE DEFENSE

The statements made by Jorge Mendez in the reinstatement application for the subject policy were truthful and accurate at the time the reinstatement application for the policy was executed and therefore defendant's Counterclaim must fail.

SEVENTH AFFIRMATIVE DEFENSE

Jorge Mendez never made any untruthful or inaccurate statements with respect to any application or reinstatement application for the subject policy at the time such documents were executed and therefore defendant's Counterclaim must fail.

EIGHTH AFFIRMATIVE DEFENSE

Jorge Mendez provided accurate and truthful information with respect to Question No. 4 of the Reinstatement Application which is the only question that defendant American General requested that Jorge Mendez answer following its receipt of the Reinstatement Application and therefore defendant's Counterclaim must fail.

GARRITY, GRAHAM, MURPHY, GAROFALO
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Attorneys for Plaintiff

By: S/Francis X. Garrity
FRANCIS X. GARRITY

Dated: January 11, 2010